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Sent to: bos.governance@environment.nsw.gov.au

Dear Dr Mamouney

Refined regulatory proposals for the Biodiversity Offsets Scheme

Thank you for the ongoing opportunity to comment on the proposed amendments to the *Biodiversity Conservation Regulation 2017*.

Urban Taskforce Australia maintains that the Scheme needs to be simple and easy to use if it is to be successful in protecting our biodiversity.

Greenfield development is an important part of the housing market, bringing new homes to the western suburbs of Sydney and to growing regional centres.

The Biodiversity Offset Scheme should not serve as a roadblock to all new development but should facilitate construction in areas that are not going to have an adverse impact on ecosystems, in return for protecting threatened species and communities.

It should recognise any work that has been carried out to support biodiversity, even if required by other statutes, schemes, or initiatives, and seek to reduce paperwork and red tape, which costs significant time and resources and can potentially make new projects unviable.

It is possible both to protect the environment and to ensure that the NSW Government's goal for housing supply and affordability is not unnecessarily impeded by overly bureaucratic processes.

Defining "genuine measures"

As noted in our previous submission, Urban Taskforce members have concerns about the shift from "no net loss" to "net positive" biodiversity outcomes, and its implications for compliance.

In particular, there are some questions about how measures are to be considered or determined "genuine".

Under the refined amendments, DCCEEW proposes that measures are only "genuine" if they are additional to measures already required by other statutory instruments at the time.

This changes the focus from biodiversity protection outcomes to biodiversity protection processes.

It should not matter if action to protect a biodiverse site is in addition to, or required by, other statutes or schemes.

Any initiative performed to avoid or minimise impacts should be counted even if it is required by other statutory instruments, and any action that delivers positive benefits should be considered a genuine measure.

Rejecting such work will lead to duplication of effort and simply impact the cost of compliance.

Work required by other government directives still incurs cost and delivers benefits, and an applicant should be able to point to that activity as evidence of avoiding or minimising risks.

If an action has a positive impact on biodiversity, it should be counted, whether it is voluntary or statutorily required – it should be the result, not the motivation, which matters.

Recommendation 1: That all activities that contribute to the protection of biodiversity be counted as “genuine measures”, whether they are required by other statutory instruments or performed voluntarily.

Avoiding and minimising impacts on biodiversity values

The concerns about duplication raised above also apply to how biodiversity protection activity is treated. Urban Taskforce members believe that the following needs to be addressed as part of the current review.

Recommendation 2: That biodiversity protection be simplified by:

- **introducing flexibility in the treatment of essential infrastructure, where avoidance may not be possible on a development site;**
- **streamlining State and Federal biodiversity assessment and protection processes to prevent duplication and red tape;**
- **counting assessment performed at the time of rezoning towards avoidance and minimisation efforts by the proponent;**
- **providing a credit offset to reward work that significantly enhances on-site biodiversity; and**
- **pre-certifying locations to reduce the amount of avoidance and minimisation work needed by the proponent.**

Reducing reliance on the Biodiversity Conservation Fund (BCF)

Urban Taskforce does not oppose the proposed changes to obligations under the BCF, subject to seeing the details, but believes that the Fund itself should be retained.

Simplifying offset trading rules for ecosystem credits

Urban Taskforce welcomes the proposed increase in funding for the Credits Supply Fund, Stewardship Support Program, and digital solutions, but believes that DCCEEW should still seek to simplify offset trading to encourage greater biodiversity conservation.

Recommendation 3: That DCCEEW consider further changes to the Offset Scheme to simplify trading and encourage conservation.

Balancing application of the scheme with biodiversity risks

Urban Taskforce welcomes the exemptions for low-impact local developments with only small incursions into the biodiversity values map.

This sensible change will prevent the Biodiversity Offsets Scheme from being bogged down in insignificant minor assessments.

Other potential regulatory amendments

Urban Taskforce welcomes an accreditation scheme for conservation brokers and has no comment on most of the other amendments.

We will need to see more details about the Biodiversity Conservation Trust's management of the Biodiversity Stewardship Payment Fund and the landholder-initiated review process for the Biodiversity Values Map when they become available. In principle, however, we support a greater emphasis on the Stewardship program to ease pressure on the system.

Conclusion

Urban Taskforce believes that biodiversity protection is already significantly controlled under existing legislation.

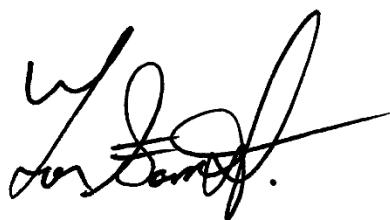
We support the Biodiversity Offset Scheme and other initiatives to support conservation efforts, but believe that the system needs to be simplified to make it more accessible to the private sector, including:

- recognising all biodiversity protection work, regardless of motivation;
- simplifying trading rules to make the Scheme more accessible; and
- conducting assessments up front to reduce the amount of work expected of proponents.

Urban Taskforce will continue to work with the Department to ensure that the regulations help achieve these outcomes.

Should you wish to discuss any aspect of this submission further, please contact our Policy, Planning, and Research Analyst, Paul Waterhouse, on 0411-875-366 or via email paul@urbantaskforce.com.au

Yours sincerely



Tom Forrest
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